

**ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)**  
**Act 306 of 1969**

CHAPTER 3

PROCEDURES FOR PROCESSING AND PUBLISHING RULES

**24.231 Rules; continuation; amendment; rescission.**

Sec. 31. (1) Rules which became effective before July 1, 1970 continue in effect until amended or rescinded.

(2) When a law authorizing or directing an agency to promulgate rules is repealed and substantially the same rule-making power or duty is vested in the same or a successor agency by a new provision of law or the function of the agency to which the rules are related is transferred to another agency, by law or executive order, the existing rules of the original agency relating thereto continue in effect until amended or rescinded, and the agency or successor agency may rescind any rule relating to the function. When a law creating an agency or authorizing or directing it to promulgate rules is repealed or the agency is abolished and substantially the same rule-making power or duty is not vested in the same or a successor agency by a new provision of law and the function of the agency to which the rules are related is not transferred to another agency, the existing applicable rules of the original agency are automatically rescinded as of the effective date of the repeal of such law or the abolition of the agency.

(3) The rescission of a rule does not revive a rule which was previously rescinded.

(4) The amendment or rescission of a valid rule does not defeat or impair a right accrued, or affect a penalty incurred, under the rule.

(5) Except in the case of the amendment of rules concerning inmates as described in section 7(k), a rule may be amended or rescinded by another rule which constitutes the whole or a part of a filing of rules or as a result of an act of the legislature.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1970, Act 40, Imd. Eff. July 1, 1970;—Am. 1989, Act 288, Imd. Eff. Dec. 26, 1989.

**Popular name:** Act 306

**Popular name:** APA

**24.232 Statutory construction; discrimination; crimes; adoption by reference; effect of guideline, operational memorandum, bulletin, interpretive statement, or form with instructions; agency order; limitation on rule-making delegation.**

Sec. 32. (1) Definitions of words and phrases and rules of construction prescribed in any statute that are made applicable to all statutes of this state also apply to rules unless clearly indicated to the contrary.

(2) A rule or exception to a rule shall not discriminate in favor of or against any person. A person affected by a rule is entitled to the same benefits as any other person under the same or similar circumstances.

(3) The violation of a rule is a crime when so provided by statute. A rule shall not make an act or omission to act a crime or prescribe a criminal penalty for violation of a rule.

(4) An agency may adopt, by reference in its rules and without publishing the adopted matter in full, all or any part of a code, standard or regulation that has been adopted by an agency of the United States or by a nationally recognized organization or association. The reference shall fully identify the adopted matter by date and otherwise. The reference shall not cover any later amendments and editions of the adopted matter, but if the agency wishes to incorporate them in its rule it shall amend the rule or promulgate a new rule therefor. The agency shall have available copies of the adopted matter for inspection and distribution to the public at cost and the rules shall state where copies of the adopted matter are available from the agency and the agency of the United States or the national organization or association and the cost of a copy as of the time the rule is adopted.

(5) A guideline, operational memorandum, bulletin, interpretive statement, or form with instructions is not enforceable by an agency, is considered merely advisory, and shall not be given the force and effect of law. An agency shall not rely upon a guideline, operational memorandum, bulletin, interpretive statement, or form with instructions to support the agency's decision to act or refuse to act if that decision is subject to judicial review. A court shall not rely upon a guideline, operational memorandum, bulletin, interpretive statement, or form with instructions to uphold an agency decision to act or refuse to act.

(6) Where a statute provides that an agency may proceed by rule-making or by order and an agency proceeds by order in lieu of rule-making, the order shall not be given general applicability to persons who were not parties to the proceeding or contested case before the issuance of the order, unless the order was issued after public notice and a public hearing.

(7) A rule shall not exceed the rule-making delegation contained in the statute authorizing the rule-making.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1970, Act 40, Imd. Eff. July 1, 1970;—Am. 2011, Act 270, Imd. Eff. Dec. 19, 2011.

**Popular name:** Act 306

**Popular name:** APA

#### **24.233 Rules; organization; operations; procedures.**

Sec. 33. (1) An agency shall promulgate rules describing its organization and stating the general course and method of its operations and may include therein forms with instructions. Sections 41, 42, 45, and 45a do not apply to such rules.

(2) An agency shall promulgate rules prescribing its procedures available to the public and the methods by which the public may obtain information and submit requests.

(3) An agency may promulgate rules not inconsistent with this act or other applicable statutes prescribing procedures for contested cases.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1999, Act 262, Eff. Apr. 1, 2000.

**Administrative rules:** R 11.1 et seq.; R 24.61 et seq.; R 28.4011 et seq.; R 32.11 et seq.; R 35.1 et seq.; R 38.1 et seq.; R 169.1 et seq.; R 209.1 et seq.; R 211.401 et seq.; R 225.1 et seq.; R 247.1 et seq.; R 257.31 et seq.; R 257.301 et seq.; R 257.1001 et seq.; R 285.900.1; R 299.2901 et seq.; R 299.2903 et seq.; R 299.5001 et seq.; R 299.5101 et seq.; R 299.51001 et seq.; R 323.1001 et seq.; R 324.1 et seq.; R 325.10101 et seq.; R 330.1001 et seq.; R 340.1351 et seq.; R 349.291; R 390.621; R 400.1 et seq.; R 408.20001 et seq.; R 408.21401 et seq.; R 418.10101 et seq.; R 418.10104 et seq.; R 432.1001 et seq.; R 436.1951 et seq.; R 436.1963; R 451.1901 et seq.; R 451.2101 et seq.; R 501.351 et seq.; and R 722.1 et seq. of the Michigan Administrative Code.

**Popular name:** Act 306

**Popular name:** APA

#### **24.234 Office of regulatory reform; agency; powers and duties.**

Sec. 34. (1) The office of regulatory reform is an independent and autonomous type 1 agency within the department of management and budget. The office of regulatory reform has the powers and duties as set forth in executive order no. 1995-6 (executive reorganization order no. 1995-5), MCL 10.151, and shall exercise the powers and perform the duties prescribed by subsection (2) independently of the principal executive departments of this state, including, but not limited to, personnel, budgeting, procurement, and management-related functions.

(2) In addition to any other powers and duties described in subsection (1), the office of regulatory reform shall review proposed rules, coordinate processing of rules by agencies, work with the agencies to streamline the rule-making process, and consider efforts designed to improve public access to the rule-making process.

**History:** Add. 1999, Act 262, Eff. Apr. 1, 2000.

**Compiler's note:** For transfer of powers and duties of the office of regulatory reform from the department of management and budget to the office of regulatory reform, see E.R.O. No. 2000-1, compiled at MCL 10.152 of the Michigan compiled laws.

**Popular name:** Act 306

**Popular name:** APA

#### **24.235 Joint committee on administrative rules; creation; appointment and terms of members; chairperson; expenses; meetings; hearings; action by committee; report; hiring and supervision of staff and related functions.**

Sec. 35. (1) The joint committee on administrative rules is created and consists of 5 members of the senate and 5 members of the house of representatives appointed in the same manner as standing committees are appointed for terms of 2 years. Of the 5 members in each house, 3 shall be from the majority party and 2 shall be from the minority party. The chairperson of the committee shall alternate between houses each year. Members of the committee shall serve without compensation but shall be reimbursed for expenses incurred in the business of the committee. The expenses of the members of the senate shall be paid from appropriations to the senate and the expenses of the members of the house of representatives shall be paid from appropriations to the house of representatives. The committee may meet during a session of the legislature and during an interim between sessions. The committee may hold a hearing on a rule transmitted to the committee, any rule previously filed with the secretary of state, or any other matter the committee considers appropriate. Action by the committee, including action taken under section 52, shall be by concurring majorities of the members from each house. The committee shall report its activities and recommendations to the legislature at each regular session.

(2) The committee may hire staff to assist the committee under this act. However, the supervision of staff, budgeting, procurement, and related functions of the committee shall be performed by the council administrator under section 104a of the legislative council act, 1986 PA 268, MCL 4.1104a.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1978, Act 243, Imd. Eff. June 19, 1978;—Am. 1987, Act 13, Imd. Eff. Apr. 6, 1987

;—Am. 1990, Act 290, Eff. Jan. 1, 1991;—Am. 1995, Act 178, Imd. Eff. Oct. 17, 1995;—Am. 2011, Act 245, Imd. Eff. Dec. 8, 2011.

**Popular name:** Act 306

**Popular name:** APA

#### **24.235a Repealed. 1993, Act 7, Eff. Dec. 8, 1994.**

**Compiler's note:** The repealed section pertained to membership of joint committee on administrative rules beginning January 13, 1993.

**Popular name:** Act 306

**Popular name:** APA

#### **24.236 Office of regulatory reform procedures and standards for rules.**

Sec. 36. The office of regulatory reform may prescribe procedures and standards not inconsistent with this act or other applicable statutes for the drafting of rules, publication of required notices, and distribution of rules. The office of regulatory reform may prescribe procedures and standards not inconsistent with this act or other applicable statutes for the processing of rules within the executive branch. The procedures and standards shall be included in a manual which the office of regulatory reform shall publish and distribute in reasonable quantities to the state departments and the committee.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1999, Act 262, Eff. Apr. 1, 2000.

**Popular name:** Act 306

**Popular name:** APA

#### **24.238 Filing of requests by individuals for promulgation of certain rules.**

Sec. 38. A person may request an agency to promulgate a rule. Within 90 days after filing of a request, the agency shall initiate the processing of a rule or issue a concise written statement of its principal reasons for denial of the request. The denial of a request is not subject to judicial review.

**History:** 1969, Act 306, Eff. July 1, 1970.

**Popular name:** Act 306

**Popular name:** APA

#### **24.239 Request for rule-making.**

Sec. 39. (1) Before initiating any changes or additions to rules, an agency shall electronically file with the office of regulatory reinvention a request for rule-making in a format prescribed by the office of regulatory reinvention. The request for rule-making shall include the following:

- (a) The state or federal statutory or regulatory basis for the rule.
- (b) The problem the rule intends to address.
- (c) An assessment of the significance of the problem.
- (d) If applicable, the decision record.

(2) If an agency receives recommendations or comments by any advisory committee or other advisory entity created by statute regarding a request for rule-making, the advisory committee or entity shall issue to the agency a decision record.

(3) An agency shall not proceed with the processing of a rule outlined in this chapter unless the office of regulatory reinvention has approved the request for rule-making. The office of regulatory reinvention is not required to approve a request for rule-making and shall do so only after it has indicated in its response to the request for rule-making submitted by an agency that there are appropriate and necessary policy and legal bases for approving the request for rule-making.

(4) The office of regulatory reinvention shall record the receipt of all requests for rule-making on the internet and shall make electronic or paper copies of approved requests for rule-making available to members of the general public. The office of regulatory reinvention shall issue a written or electronic response to the request for rule-making that specifically addresses whether the request has appropriate and necessary policy and legal bases for approving the request for rule-making.

(5) The office of regulatory reinvention shall immediately make available to the committee electronic copies of the request for rule-making submitted to the office of regulatory reinvention. On a weekly basis, the office of regulatory reinvention shall electronically provide to the committee a listing of all requests for rule-making approved or denied during the previous week. The committee shall electronically provide a copy of the approved and denied requests for rule-making, not later than the next business day after receipt of the notice from the office of regulatory reinvention, to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

**History:** Add. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2011, Act 239, Imd. Eff. Dec. 8, 2011.  
Rendered Friday, February 3, 2017

1, 2011.

**Popular name:** Act 306

**Popular name:** APA

#### **24.239a Notice of public hearing; approval by office of regulatory reform; copies.**

Sec. 39a. (1) An agency may publish the notice of hearing under section 42 only if the office of regulatory reform has received draft proposed rules and has given the agency approval to proceed with a public hearing.

(2) After a grant of approval to hold a public hearing by the office of regulatory reform under subsection (1), the office of regulatory reform shall immediately provide a copy of the proposed rules to the committee. The committee shall provide a copy of the proposed rules, not later than the next business day after receipt of the notice from the office of regulatory reform, to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

**History:** Add. 1999, Act 262, Eff. Apr. 1, 2000.

**Popular name:** Act 306

**Popular name:** APA

#### **24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).**

Sec. 40. (1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

(a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.

(b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

(c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.

(d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

(a) 0-9 full-time employees.

(b) 10-49 full-time employees.

(c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

**History:** Add. 1984, Act 273, Eff. Mar. 29, 1985;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2011, Act 243, Imd. Eff. Dec. 8, 2011.

**Popular name:** Act 306

**Popular name:** APA

#### **24.241 Notice of public hearing before adoption of rule; opportunity to present data, views, questions, and arguments; time, contents, and transmittal of notice; renewal of requests for notices; provisions governing public hearing; presence and participation of certain persons at public hearing required.**

Sec. 41. (1) Except as provided in section 44, before the adoption of a rule, an agency, or the office of regulatory reform, shall give notice of a public hearing and offer a person an opportunity to present data, views, questions, and arguments. The notice shall be given within the time prescribed by any applicable statute, or if none, in the manner prescribed in section 42(1).

(2) The notice described in subsection (1) shall include all of the following:

(a) A reference to the statutory authority under which the action is proposed.

(b) The time and place of the public hearing and a statement of the manner in which data, views, questions,

and arguments may be submitted by a person to the agency at other times.

(c) A statement of the terms or substance of the proposed rule, a description of the subjects and issues involved, and the proposed effective date of the rule.

(3) The agency, or the office of regulatory reform acting on behalf of an agency, shall transmit copies of the notice to each person who requested the agency in writing or electronically for advance notice of proposed action that may affect the person. If requested, the notice shall be by mail, in writing, or electronically to the last address specified by the person.

(4) The public hearing shall comply with any applicable statute, but is not subject to the provisions governing a contested case.

(5) The head of the promulgating agency or 1 or more persons designated by the head of the agency who have knowledge of the subject matter of the proposed rule shall be present at the public hearing and shall participate in the discussion of the proposed rule.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1977, Act 108, Eff. Jan. 1, 1978;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1989, Act 288, Imd. Eff. Dec. 26, 1989;—Am. 1993, Act 141, Imd. Eff. Aug. 4, 1993;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2004, Act 491, Eff. Jan. 12, 2005.

**Compiler's note:** Enacting section 2 of Act 491 of 2004 provides:

"Enacting section 2. This amendatory act applies to rules transmitted to the joint committee on administrative rules on or after January 12, 2005. Rules transmitted to the joint committee on administrative rules before January 12, 2005, shall be processed according to the act as it existed before January 12, 2005."

**Popular name:** Act 306

**Popular name:** APA

#### **24.241a Request by legislator for copies of proposed rules or changes in rules.**

Sec. 41a. A member of the legislature may annually submit a written or electronic request to the office of regulatory reform requesting that a copy of all proposed rules or changes in rules, or any designated proposed rules or changes in rules submitted to the office of regulatory reform for its approval, be mailed or electronically transmitted to the requesting member upon his or her receipt by the office of regulatory reform.

**History:** Add. 1971, Act 171, Imd. Eff. Dec. 2, 1971;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004.

**Popular name:** Act 306

**Popular name:** APA

#### **24.242 Notice of public hearing; publication requirements; submission of copy to office of regulatory reform; publication of notice in Michigan register; distribution of copies of notice of public hearing; meeting of joint committee on administrative rules.**

Sec. 42. (1) Except as provided in section 44, at a minimum, an agency, or the office of regulatory reform acting on behalf of the agency, shall publish the notice of public hearing as prescribed in any applicable statute or, if none, the agency, or the office of regulatory reform acting on behalf of the agency, shall publish the notice not less than 10 days and not more than 60 days before the date of the public hearing in at least 3 newspapers of general circulation in different parts of the state, 1 of which shall be in the Upper Peninsula.

(2) Additional methods that may be employed by the agency, or the office of regulatory reform acting on behalf of the agency, depending upon the circumstances, include publication in trade, industry, governmental, or professional publications or posting on the website of the agency or the office of regulatory reform.

(3) In addition to the requirements of subsection (1), the agency shall electronically submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan register. If the office of regulatory reform submitted the notice of public hearing on behalf of the agency, the office of regulatory reform shall publish the notice of public hearing in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall electronically file a copy of the notice of public hearing with the office of regulatory reform. Within 7 days after receipt of the notice of public hearing, the office of regulatory reform shall do all of the following before the public hearing:

(a) Electronically transmit a copy of the notice of public hearing to the committee.

(b) Provide notice electronically through publicly accessible internet media.

(4) After the office of regulatory reform electronically transmits a copy of the notice of public hearing to the committee, the committee shall electronically transmit copies of the notice of public hearing, not later than the next business day after receipt of the notice from the office of regulatory reform, to each member of the committee and to the members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

(5) After receipt of the notice of public hearing filed under subsection (3), the committee may meet to



consider the proposed rule, take testimony, and provide the agency with the committee's informal response to the rule.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986;—Am. 1989, Act 288, Imd. Eff. Dec. 26, 1989;—Am. 1993, Act 141, Imd. Eff. Aug. 4, 1993;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2004, Act 491, Eff. Jan. 12, 2005.

**Compiler's note:** Enacting section 2 of Act 491 of 2004 provides:

"Enacting section 2. This amendatory act applies to rules transmitted to the joint committee on administrative rules on or after January 12, 2005. Rules transmitted to the joint committee on administrative rules before January 12, 2005, shall be processed according to the act as it existed before January 12, 2005."

**Popular name:** Act 306

**Popular name:** APA

#### **24.243 Compliance required; contesting rule on ground of noncompliance.**

Sec. 43. (1) Except in the case of an emergency rule promulgated in the manner described in section 48, a rule is not valid unless processed in compliance with section 42 and unless in substantial compliance with section 41(2), (3), (4), and (5).

(2) A proceeding to contest a rule on the ground of noncompliance with the requirements of sections 41 and 42 shall be commenced within 2 years after the effective date of the rule.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1989, Act 288, Imd. Eff. Dec. 26, 1989.

**Popular name:** Act 306

**Popular name:** APA

#### **24.244 Notice of public hearings on rules; exceptions to requirements; applicability of MCL 24.241 and 24.242 to rules promulgated under Michigan occupational safety and health act; "substantially similar" defined.**

Sec. 44. (1) Sections 41 and 42 do not apply to an amendment or rescission of a rule that is obsolete or superseded, or that is required to make obviously needed corrections to make the rule conform to an amended or new statute or to accomplish any other solely formal purpose, if a statement to that effect is included in the legislative service bureau certificate of approval of the rule.

(2) Sections 41 and 42 do not apply to a rule that is promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, that is substantially similar to an existing federal standard that has been adopted or promulgated under the occupational safety and health act of 1970, Public Law 91-596, 84 Stat. 1590. However, notice of the proposed rule shall be published in the Michigan register at least 35 days before the submission of the rule to the secretary of state pursuant to section 46(1). A reasonable period, not to exceed 21 days, shall be provided for the submission of written or electronic comments and views following publication in the Michigan register.

(3) For purposes of subsection (2), "substantially similar" means identical, with the exception of style or format differences needed to conform to this or other state laws, as determined by the office of regulatory reform pursuant to section 45(1).

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1993, Act 141, Imd. Eff. Aug. 4, 1993;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004.

**Popular name:** Act 306

**Popular name:** APA

#### **24.245 Approval of rules by legislative service bureau and office of regulatory reinvention; agency reports; regulatory impact statement; fiscal agency reports; exceptions.**

Sec. 45. (1) Except as otherwise provided in this subsection, an agency shall electronically submit a proposed rule to the legislative service bureau for its formal certification. If requested by the legislative service bureau, the office of regulatory reinvention shall also transmit up to 4 paper copies of the proposed rule. The legislative service bureau shall promptly issue a certificate of approval indicating whether the proposed rule is proper as to all matters of form, classification, and arrangement. If the legislative service bureau fails to issue a certificate of approval within 21 calendar days after receipt of the submission for formal certification, the office of regulatory reinvention may issue a certificate of approval. If the legislative service bureau returns the submission to the agency before the expiration of the 21-calendar-day time period, the 21-calendar-day time period is tolled until the rule is resubmitted by the agency. The legislative service bureau shall have the remainder of the 21-calendar-day time period or 6 calendar days, whichever is longer, to consider the formal certification of the rule. The office of regulatory reinvention may approve a proposed rule if it considers the proposed rule to be legal and appropriate.

(2) Except as provided in subsection (6), after notice is given as provided in this act and before the agency proposing the rule has formally adopted the rule, the agency shall prepare an agency report containing a synopsis of the comments contained in the public hearing record, a copy of the request for rule-making, and the regulatory impact statement required under subsection (3). In the report, the agency shall describe any changes in the proposed rules that were made by the agency after the public hearing. The office of regulatory reinvention shall transmit by notice of transmittal to the committee copies of the rule, the agency reports containing the request for rule-making, a copy of the regulatory impact statement, and certificates of approval from the legislative service bureau and the office of regulatory reinvention. The office of regulatory reinvention shall also electronically submit to the committee a copy of the rule, any agency reports required under this subsection, any regulatory impact statements required under subsection (3), and any certificates of approval required under subsection (1). The agency shall electronically transmit to the committee the records described in this subsection within 1 year after the date of the last public hearing on the proposed rule unless the proposed rule is a resubmission under section 45a(7).

(3) Except as provided in subsection (6), an agency shall prepare and include with a notice of transmittal under subsection (2) the request for rule-making and the response from the office of regulatory reinvention, a small business impact statement prepared under section 40(1), and a regulatory impact statement. The regulatory impact statement shall contain all of the following information:

(a) A comparison of the proposed rule to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

(b) If requested by the office of regulatory reinvention or the committee, a comparison of the proposed rule to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

(c) An identification of the behavior and frequency of behavior that the rule is designed to alter.

(d) An identification of the harm resulting from the behavior that the rule is designed to alter and the likelihood that the harm will occur in the absence of the rule.

(e) An estimate of the change in the frequency of the targeted behavior expected from the rule.

(f) An identification of the businesses, groups, or individuals who will be directly affected by, bear the cost of, or directly benefit from the rule.

(g) An identification of any reasonable alternatives to regulation pursuant to the proposed rule that would achieve the same or similar goals.

(h) A discussion of the feasibility of establishing a regulatory program similar to that proposed in the rule that would operate through market-based mechanisms.

(i) An estimate of the cost of rule imposition on the agency promulgating the rule.

(j) An estimate of the actual statewide compliance costs of the proposed rule on individuals.

(k) A demonstration that the proposed rule is necessary and suitable to achieve its purpose in proportion to the burdens it places on individuals.

(l) An estimate of the actual statewide compliance costs of the proposed rule on businesses and other groups.

(m) An identification of any disproportionate impact the proposed rule may have on small businesses because of their size.

(n) An identification of the nature of any report required and the estimated cost of its preparation by small businesses required to comply with the proposed rule.

(o) An analysis of the costs of compliance for all small businesses affected by the proposed rule, including costs of equipment, supplies, labor, and increased administrative costs.

(p) An identification of the nature and estimated cost of any legal consulting and accounting services that small businesses would incur in complying with the proposed rule.

(q) An estimate of the ability of small businesses to absorb the costs estimated under subdivisions (n) to (p) without suffering economic harm and without adversely affecting competition in the marketplace.

(r) An estimate of the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

(s) An identification of the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

(t) A statement describing the manner in which the agency reduced the economic impact of the rule on small businesses or a statement describing the reasons such a reduction was not feasible.

(u) A statement describing how the agency has involved small businesses in the development of the rule.

(v) An estimate of the primary and direct benefits of the rule.

(w) An estimate of any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the rule.

- (x) An estimate of any increase in revenues to state or local governmental units as a result of the rule.
- (y) An estimate of any secondary or indirect benefits of the rule.
- (z) An identification of the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule and a cost-benefit analysis of the proposed rule.
- (aa) A detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule upon small businesses as described in section 40(1)(a) to (d).
- (bb) Any other information required by the office of regulatory reinvention.
- (4) The agency shall electronically transmit the regulatory impact statement required under subsection (3) to the office of regulatory reinvention at least 28 days before the public hearing required under section 42. Before the public hearing can be held, the regulatory impact statement must be reviewed and approved by the office of regulatory reinvention. The agency shall also electronically transmit a copy of the regulatory impact statement to the committee before the public hearing and the agency shall make copies available to the public at the public hearing. The agency shall publish the regulatory impact statement on its website at least 10 days before the date of the public hearing.
- (5) The committee shall electronically transmit to the senate fiscal agency and the house fiscal agency a copy of each rule and regulatory impact statement filed with the committee and a copy of the agenda identifying the proposed rules to be considered by the committee. The senate fiscal agency and the house fiscal agency shall analyze each proposed rule for possible fiscal implications that, if the rule were adopted, would result in additional appropriations in the current fiscal year or commit the legislature to an appropriation in a future fiscal year. The senate fiscal agency and the house fiscal agency shall electronically report their findings to the senate and house appropriations committees and to the committee before the date of consideration of the proposed rule by the committee.
- (6) Subsections (2), (3), and (4) do not apply to a rule that is promulgated under section 33, 44, or 48.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1971, Act 171, Imd. Eff. Dec. 2, 1971;—Am. 1977, Act 108, Eff. Jan. 1, 1978;—Am. 1978, Act 243, Imd. Eff. June 19, 1978;—Am. 1980, Act 455, Imd. Eff. Jan. 15, 1981;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1983, Act 202, Imd. Eff. Nov. 10, 1983;—Am. 1984, Act 273, Eff. Mar. 29, 1985;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986;—Am. 1987, Act 13, Imd. Eff. Apr. 6, 1987;—Am. 1989, Act 288, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 38, Imd. Eff. Mar. 28, 1990;—Am. 1993, Act 141, Imd. Eff. Aug. 4, 1993;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2004, Act 491, Eff. Jan. 12, 2005;—Am. 2011, Act 242, Imd. Eff. Dec. 8, 2011;—Am. 2013, Act 200, Eff. Mar. 19, 2014.

**Constitutionality:** In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, art 4, and violated the separation of powers provision of Const 1963, art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. *Blank v Department of Corrections*, 462 Mich 103; 611 NW2d 530 (2000).

**Compiler's note:** For transfer of powers and duties pertaining to small business economic impact statements under MCL 24.245 from the department of commerce to the office of regulatory reform in the executive office of the governor, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For creation of the office of regulatory reform within the executive office of the governor and transfer of the attorney general's duties to the office of regulatory reform, see E.R.O. No. 1995-5, compiled at MCL 10.151 of the Michigan Compiled Laws.

Enacting section 2 of Act 491 of 2004 provides:

"Enacting section 2. This amendatory act applies to rules transmitted to the joint committee on administrative rules on or after January 12, 2005. Rules transmitted to the joint committee on administrative rules before January 12, 2005, shall be processed according to the act as it existed before January 12, 2005."

**Popular name:** Act 306

**Popular name:** APA

## **24.245a Joint committee on administrative rules; review; filing notice of objection; effect; actions by legislature; filing of rule by office of regulatory reinvention; effective date of rule; withdrawal and resubmission of rule; tolling; "session day" defined.**

Sec. 45a. (1) Except as otherwise provided in subsections (7) to (9), after the committee has received the notice of transmittal specified in section 45(2), the committee has 15 session days in which to consider the rule and to object to the rule by filing a notice of objection approved by a concurrent majority of the committee members or the committee may, by concurrent majority, waive the remaining session days. If the committee waives the remaining session days, the clerk of the committee shall promptly notify the office of regulatory reinvention of the waiver by electronic transmission. The committee may only approve a notice of objection if the committee affirmatively determines by a concurrent majority that 1 or more of the following conditions exist:



- (a) The agency lacks statutory authority for the rule.
  - (b) The agency is exceeding the statutory scope of its rule-making authority.
  - (c) There exists an emergency relating to the public health, safety, and welfare that would warrant disapproval of the rule.
  - (d) The rule conflicts with state law.
  - (e) A substantial change in circumstances has occurred since enactment of the law upon which the proposed rule is based.
  - (f) The rule is arbitrary or capricious.
  - (g) The rule is unduly burdensome to the public or to a licensee licensed by the rule.
- (2) If the committee does not file a notice of objection within the time period prescribed in subsection (1) or if the committee waives the remaining session days by concurrent majority, the office of regulatory reinvention may immediately file the rule, with the certificate of approval required under section 45(1), with the secretary of state. The rule takes effect immediately upon its filing with the secretary of state unless a later date is indicated within the rule.
- (3) If the committee files a notice of objection within the time period prescribed in subsection (1), the committee chair, the alternate chair, or any member of the committee shall cause bills to be introduced in both houses of the legislature simultaneously. Each house shall place the bill or bills directly on its calendar. The bills shall contain 1 or more of the following:
- (a) A rescission of a rule upon its effective date.
  - (b) A repeal of the statutory provision under which the rule was authorized.
  - (c) A bill staying the effective date of the proposed rule for up to 1 year.
- (4) The notice of objection filed under subsection (3) stays the ability of the office of regulatory reinvention to file the rule with the secretary of state until the earlier of the following:
- (a) Fifteen session days after the notice of objection is filed under subsection (3).
  - (b) The date of the rescission of the issuance of the notice of objection, approved by a concurrent majority of the committee members. The committee may meet to rescind the issuance of the notice of objection under this subdivision. If the committee rescinds the issuance of a notice of objection under this subdivision, the clerk of the committee shall promptly notify the office of regulatory reinvention by electronic transmission of the rescission.
- (5) If the legislation introduced under subsection (3) is defeated in either house and if the vote by which the legislation failed to pass is not reconsidered in compliance with the rules of that house, or if legislation introduced under subsection (3) is not adopted by both houses within the time period specified in subsection (4), the office of regulatory reinvention may file the rule with the secretary of state. The rule takes effect immediately upon its filing with the secretary of state unless a later date is specified within the rule.
- (6) If the legislation introduced under subsection (3) is enacted by the legislature and presented to the governor within the 15-session-day period, the rule does not take effect unless the legislation is vetoed by the governor as provided by law. If the governor vetoes the legislation, the office of regulatory reinvention may file the rule with the secretary of state immediately. The rule takes effect 7 days after the date of its filing with the secretary of state unless a later effective date is indicated within the rule.
- (7) An agency may withdraw a proposed rule under the following conditions:
- (a) With permission of the committee chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is granted, the 15-session-day time period described in subsection (1) is tolled until the rule is resubmitted, except that the committee shall have at least 6 session days after resubmission to consider the resubmitted rule.
  - (b) Without permission of the committee chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is not granted, a new and untolled 15-session-day time period described in subsection (1) shall begin upon resubmission of the rule to the committee for consideration.
- (8) Subsections (1) to (5) do not apply to rules adopted under sections 33, 44, and 48.
- (9) An agency shall withdraw any rule pending before the committee at the final adjournment of a regular session held in an even-numbered year and resubmit that rule. A new and untolled 15-session-day time period described in subsection (1) shall begin upon resubmission of the rule to the committee for consideration.
- (10) As used in this section only, "session day" means a day in which both the house of representatives and the senate convene in session and a quorum is recorded.

**History:** Add. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2004, Act 491, Eff. Jan. 12, 2005;—Am. 2011, Act 245, Imd. Eff. Dec. 8, 2011.

**Compiler's note:** Enacting section 2 of Act 491 of 2004 provides:

"Enacting section 2. This amendatory act applies to rules transmitted to the joint committee on administrative rules on or after January 12, 2005. Rules transmitted to the joint committee on administrative rules before January 12, 2005, shall be processed according to the rules of the joint committee on administrative rules in effect on January 12, 2005."

to the act as it existed before January 12, 2005."

**Popular name:** Act 306

**Popular name:** APA

#### **24.245b Information to be posted on office of regulatory reinvention website.**

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
- (b) Instructions on any existing administrative remedies or appeals available to the public.
- (c) Instructions regarding the method of complying with the rules, if available.
- (d) Any rules filed with the secretary of state and the effective date of those rules.

(2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

**History:** Add. 2011, Act 247, Imd. Eff. Dec. 8, 2011.

**Popular name:** Act 306

**Popular name:** APA

#### **24.246 Promulgation of rules; procedure; arrangement, binding, certification, and inspection of rules.**

Sec. 46. (1) To promulgate a rule the state office of administrative hearings and rules shall file in the office of the secretary of state 3 copies of the rule bearing the required certificates of approval and adoption, true copies of the rule without the certificates, and 1 electronic copy. The state office of administrative hearings and rules shall not file a rule, except an emergency rule under section 48 and rules processed under sections 33 and 44, until the time periods for committee and legislative consideration described in section 45a have elapsed.

(2) The secretary of state shall endorse the date and hour of filing of rules on the 3 copies of the filing bearing the certificates and shall maintain a file containing 1 copy for public inspection.

(3) The secretary of state, as often as he or she considers it advisable, shall cause to be arranged and bound in a substantial manner the rules hereafter filed in his or her office with their attached certificates and published in a supplement to the Michigan administrative code. The secretary of state shall certify under his or her hand and seal of the state on the frontispiece of each volume that it contains all of the rules filed and published for a specified period. The rules, when so bound and certified, shall be kept in the office of the secretary of state and no further record of the rules is required to be kept. The bound rules are subject to public inspection.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1971, Act 171, Imd. Eff. Dec. 2, 1971;—Am. 1977, Act 108, Eff. Jan. 1, 1978;—Am. 1993, Act 141, Imd. Eff. Aug. 4, 1993;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2006, Act 247, Imd. Eff. July 3, 2006.

**Constitutionality:** In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, art 4, and violated the separation of powers provision of Const 1963, art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. *Blank v Department of Corrections*, 462 Mich 103; 611 NW2d 530 (2000).

**Popular name:** Act 306

**Popular name:** APA

#### **24.247 Effective date of rules; withdrawal or rescission of promulgated rules; notice of withdrawal.**

Sec. 47. (1) Except in case of a rule processed under section 48, a rule becomes effective on the date fixed in the rule, which shall not be earlier than 7 days after the date of its promulgation, or if a date is not so fixed then 7 days after the date of promulgation.

(2) Except in case of a rule processed under section 48, an agency may withdraw a promulgated rule which has not become effective by filing a written request stating reasons for withdrawal to the secretary of state on or before the last day for filing rules for the interim period in which the rules were first filed, or by filing a written request for withdrawal to the secretary of state and the office of regulatory reform, within a reasonable time as determined by the office of regulatory reform, after the last day for filing and before publication of the rule in the next supplement to the code. In any other case an agency may abrogate its rule only by rescission. When an agency has withdrawn a promulgated rule, it shall give notice, stating reasons, to the committee that the rule has been withdrawn.

(3) Sections 45 and 45a apply to rules for which a public hearing has not been held by April 1, 2000.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1971, Act 171, Imd. Eff. Dec. 2, 1971;—Am. 1977, Act 108, Eff. Jan. 1, 1978;—Am. 1999, Act 262, Eff. Apr. 1, 2000.

**Popular name:** Act 306

**Popular name:** APA

#### **24.248 Emergency rules; scheduling substance as controlled substance; numbering and compilation; "administrator" defined.**

Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule the agency's reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state the copies prescribed by section 46 endorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by the filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule.

(2) If the director of the department of community health determines that an imminent danger to the health or lives of individuals in this state can be prevented or controlled by scheduling a substance as a controlled substance under section 2251(4) of the public health code, 1978 PA 368, MCL 333.2251, and the administrator determines that the substance should be scheduled or rescheduled as a controlled substance, the department of licensing and regulatory affairs may dispense with all or part of the procedures required by sections 41 and 42 and file in the office of the secretary of state the copies prescribed by section 46 endorsed as an emergency rule, to 3 of which copies shall be attached the certificate of approval and the director of the department of community health's notification under section 2251(4) of the public health code, 1978 PA 368, MCL 333.2251. The office of regulatory reinvention shall submit the emergency rule draft language to the legislative service bureau for its formal certification within 7 business days of receipt from the department of licensing and regulatory affairs. The legislative service bureau shall issue a certificate of approval indicating whether the proposed rule is proper as to all matters of form, classification, and arrangement within 7 business days after receiving the submission and return the rule to the office of regulatory reinvention. If the legislative service bureau fails to issue a certificate of approval within 7 business days after receipt of the submission for formal certification, the office of regulatory reinvention may issue a certificate of approval. If the legislative service bureau returns the submission to the office of regulatory reinvention before the expiration of the 7-business-day time period, the 7-business-day time period is tolled until the rule is returned by the office of regulatory reinvention. The legislative service bureau shall have the remainder of the 7-business-day time period to consider the formal certification of the rule. Upon receipt from the legislative service bureau, the office of regulatory reinvention shall, within 7 business days, approve the proposed rule if it considers the proposed rule to be legal and appropriate. An emergency rule adopted under this subsection remains in effect until the earlier date of the following:

- (a) An identical or similar rule is promulgated.
- (b) An identical or similar bill is enacted into law.
- (c) The administrator determines that the emergency rule is no longer necessary.

(d) Six months after the date of its filing, which may be extended for not more than 6 months by the administrator upon filing a certificate of extension with the office of secretary of state before the expiration of 6 months after the date of its filing.

(3) An emergency rule shall not be numbered and shall not be compiled in the Michigan administrative code, but shall be noted in the annual supplement to the code. The emergency rule shall be published in the Michigan register pursuant to section 8.

(4) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, the agency shall comply with the procedures prescribed by this act for the processing of a rule which is not an emergency rule. The rule shall be published in the Michigan register and in the code.

(5) As used in this section, "administrator" means that term as defined in section 7103 of the public health code, 1978 PA 368, MCL 333.7103.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1977, Act 82, Imd. Eff. Aug. 2, 1977;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2012, Act 181, Imd. Eff. June 19, 2012.

**Popular name:** Act 306

**Popular name:** APA

#### **24.249 Filed rules; transmission.**

Sec. 49. (1) The secretary of state shall transmit, after copies of rules are filed in his or her office, the following:

(a) To the secretary of the committee and the state office of administrative hearings and rules, a paper copy upon which the day and hour of that filing have been endorsed.

(b) To the secretary of the senate and the clerk of the house of representatives, an electronic copy for distribution or transmittal by them to each member of the senate and the house of representatives. When the legislature is not in session, or is in session but will not meet for more than 10 days after the secretary and clerk have received the rules, the secretary and clerk shall mail or electronically transmit 1 copy to each member of the legislature at his or her home address.

(2) The secretary of the senate and clerk of the house of representatives shall present the rules to the senate and the house of representatives.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2006, Act 247, Imd. Eff. July 3, 2006.

**Popular name:** Act 306

**Popular name:** APA

#### **24.250 Legislative standing committees; functions.**

Sec. 50. (1) When the legislature is in session, the committee shall electronically notify the appropriate standing committee of each house of the legislature when rules have been transmitted to the committee by the secretary of state. If the committee determines that a hearing on those rules is to be held, it shall electronically notify the chairs of the standing committees. All members of the standing committees may be present and take part in the hearing.

(2) The chair or a designated member of the standing committee should be present at the hearing, but his or her absence does not affect the validity of the hearing.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004.

**Popular name:** Act 306

**Popular name:** APA

#### **24.251 Amendment and rescission of rules by legislature; introduction of bill.**

Sec. 51. If the committee, an appropriate standing committee, or a member of the legislature believes that a promulgated rule or any part thereof is unauthorized, is not within legislative intent, or is inexpedient, the committee or member may introduce a bill at a regular session, or special session if included in a governor's message, which in effect amends or rescinds the rule.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 2004, Act 491, Eff. Jan. 12, 2005.

**Compiler's note:** Enacting section 2 of Act 491 of 2004 provides:

"Enacting section 2. This amendatory act applies to rules transmitted to the joint committee on administrative rules on or after January 12, 2005. Rules transmitted to the joint committee on administrative rules before January 12, 2005, shall be processed according to the act as it existed before January 12, 2005."

**Popular name:** Act 306

**Popular name:** APA

#### **24.252 Suspension of rules.**

Sec. 52. (1) If authorized by concurrent resolution of the legislature, the committee, acting between regular sessions, may suspend a rule or a part of a rule promulgated during the interim between regular sessions.

(2) The committee shall electronically notify the agency promulgating the rule, the secretary of state, and the office of regulatory reform of any rule or part of a rule the committee suspends. A rule or part of a rule suspended under this section shall not be published in the Michigan register or in the Michigan administrative code while suspended.

(3) A rule suspended by the committee continues to be suspended not longer than the end of the next regular legislative session.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2004, Act 491, Eff. Jan. 12, 2005.

**Compiler's note:** Enacting section 2 of Act 491 of 2004 provides:

"Enacting section 2. This amendatory act applies to rules transmitted to the joint committee on administrative rules on or after January 12, 2005. Rules transmitted to the joint committee on administrative rules before January 12, 2005, shall be processed according to the act as it existed before January 12, 2005."

Rendered Friday, February 3, 2017

Page 12

Michigan Compiled Laws Complete Through PA 416 of 2016

**Popular name:** Act 306

**Popular name:** APA

#### **24.253 Annual regulatory plan; link to website of office of regulatory reinvention.**

Sec. 53. (1) Each agency shall prepare an annual regulatory plan that reviews the agency's rules. The annual regulatory plan shall be electronically transmitted to the office of regulatory reinvention.

(2) In completing the annual regulatory plan required by this section, the agency shall identify the rules the agency expects to review under subsection (4) in the next year, the rules it reasonably expects to process in the next year, the mandatory statutory rule authority it has not exercised, and the rules it expects to rescind in the next year.

(3) The annual regulatory plans completed under this section are advisory only and do not otherwise bind the agency or in any way prevent additional action.

(4) In completing a review of rules pursuant to the annual regulatory plans under this section, first priority shall be given to those rules that directly affect the greatest number of businesses, groups, and individuals and those rules that have the greatest actual statewide compliance costs for businesses, groups, and individuals. A review of rules under this subsection shall state the following:

(a) Whether there is a continued need for the rules.

(b) A summary of any complaints or comments received from the public concerning the rules.

(c) The complexity of complying with the rules.

(d) Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

(e) The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

(5) Annual regulatory plans completed under subsection (1) shall be electronically filed with the office of regulatory reinvention by July 1 of each year. After the office of regulatory reinvention approves the plan for review, the office of regulatory reinvention shall electronically provide a copy of the plan of review to the committee. The committee shall electronically provide a copy of each agency plan of review, not later than the next business day after receipt of the plan of review from the office of regulatory reinvention, to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of rules the agency may propose.

(6) Each agency shall provide on its website a link to the website of the office of regulatory reinvention.

**History:** Add. 1984, Act 273, Eff. Mar. 29, 1985;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2011, Act 238, Imd. Eff. Dec. 1, 2011.

**Popular name:** Act 306

**Popular name:** APA

#### **24.254 Failure of committee to provide notice.**

Sec. 54. Failure of the committee to provide any notices required under section 24, 28, 39, 39a, or 42 does not affect the validity of the processing or adoption of a rule.

**History:** Add. 1999, Act 262, Eff. Apr. 1, 2000.

**Popular name:** Act 306

**Popular name:** APA

#### **24.255 Annual supplement to Michigan administrative code; electronic publication by office of regulatory reform; contents.**

Sec. 55. The office of regulatory reform annually shall publish an electronic supplement to the Michigan administrative code. The annual supplement shall contain all promulgated rules published in the Michigan register during the current year, except emergency rules, a cumulative numerical listing of amendments and additions to, and rescissions of rules since the last printed compilation of the Michigan administrative code, and a cumulative alphabetical index.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1977, Act 108, Eff. Jan. 1, 1978;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2003, Act 53, Imd. Eff. July 14, 2003.

**Popular name:** Act 306

**Popular name:** APA

#### **24.256 Editorial work for Michigan register, Michigan administrative code, and code supplements; uniformity; conformity with Michigan compiled laws; correction of obvious errors; publication of Michigan administrative code; time for publishing supplements.**



Sec. 56. (1) The office of regulatory reform shall perform the editorial work for the Michigan register and the Michigan administrative code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the office of regulatory reform, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The office of regulatory reform may correct in the publications obvious errors in rules when requested by the promulgating agency to do so. The office of regulatory reform may provide for publishing all or any part of the Michigan administrative code in bound volume, pamphlet, electronic, or loose-leaf form. This subsection does not prevent a legislator from providing a copy or reproduction of a rule to a member of the general public.

(2) An annual supplement to the Michigan administrative code shall be published at the earliest practicable date.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1999, Act 262, Eff. Apr. 1, 2000.

**Popular name:** Act 306

**Popular name:** APA

#### **24.257 Omission of rules from Michigan register, Michigan administrative code, and code supplements; conditions; prorating publication and distribution cost of materials published in Michigan register and annual supplement; payment.**

Sec. 57. (1) The office of regulatory reform may omit from the Michigan register, the Michigan administrative code, and the Michigan administrative code's annual supplement any rule, the publication of which would be unreasonably expensive or lengthy if the rule in printed or reproduced form is made available on application to the promulgating agency, if the Michigan administrative code publication and the Michigan register contain a notice stating the general subject of the omitted rule and how a copy of the rule may be obtained.

(2) The cost of publishing and distributing annual supplements to the Michigan administrative code and proposed rules, notices of public hearings on proposed rules, rules and emergency rules filed with the secretary of state, notices of proposed and adopted agency guidelines, and the items listed in section 7(1) in the Michigan register may be prorated by the office of regulatory reform on the basis of the volume of these materials published for each agency in the Michigan register and annual supplement to the Michigan administrative code, and the cost of publishing and distribution shall be paid out of appropriations to the agencies.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986;—Am. 1988, Act 333, Imd. Eff. Sept. 30, 1988;—Am. 1999, Act 262, Eff. Apr. 1, 2000.

**Popular name:** Act 306

**Popular name:** APA

#### **24.258 Request for preparation of reproduction proofs or negatives of rules; reimbursement; publication of rules electronically or in pamphlets; cost.**

Sec. 58. (1) When requested by an agency, the office of regulatory reform shall prepare reproduction proofs or negatives of the rules, or a portion of the rules, of the agency. The requesting agency shall reimburse the office of regulatory reform for preparing the reproduction proofs or negatives, and the cost of the preparation shall be paid out of appropriations to the agency.

(2) The Michigan administrative code may be arranged and printed to make convenient the publication electronically or in separate pamphlets of the parts of the Michigan administrative code relating to different agencies. Agencies may order the separate pamphlets, and the cost of the pamphlets shall be paid out of appropriations to the agencies.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986;—Am. 1999, Act 262, Eff. Apr. 1, 2000.

**Popular name:** Act 306

**Popular name:** APA

#### **24.259 Copies of Michigan register, Michigan administrative code, and code supplements; distribution; official use.**

Sec. 59. (1) The office of regulatory reform shall publish the Michigan register, the Michigan administrative code, and the annual supplement to the Michigan administrative code free of charge on the office of regulatory reform's internet website and may publish these documents in printed or other electronic format for public subscription at a fee, determined by the department of management and budget, that is

reasonably calculated to cover, but not to exceed, the publication and distribution costs. Any money collected by the department of management and budget from subscriptions shall be deposited into the general fund.

(2) The official Michigan administrative code is that published or made available on the office of regulatory reform's internet website free of charge.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986;—Am. 1995, Act 178, Imd. Eff. Oct. 17, 1995;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2003, Act 53, Imd. Eff. July 14, 2003.

**Popular name:** Act 306

**Popular name:** APA

#### **24.261 Filing and publication of rules; presumptions arising therefrom; judicial notice.**

Sec. 61. (1) The filing of a rule under this act raises a rebuttable presumption that the rule was adopted, filed with the secretary of state, and made available for public inspection as required by this act.

(2) The publication of a rule in the Michigan register, the Michigan administrative code, or in an annual supplement to the code raises a rebuttable presumption that:

(a) The rule was adopted, filed with the secretary of state, and made available for public inspection as required by this act.

(b) The rule printed in the publication is a true and correct copy of the promulgated rule.

(c) All requirements of this act relative to the rule have been complied with.

(3) The courts shall take judicial notice of a rule which becomes effective under this act.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984.

**Popular name:** Act 306

**Popular name:** APA

#### **24.263 Declaratory ruling by agency as to applicability of rule.**

Sec. 63. On request of an interested person, an agency may issue a declaratory ruling as to the applicability to an actual state of facts of a statute administered by the agency or of a rule or order of the agency. An agency shall prescribe by rule the form for such a request and procedure for its submission, consideration and disposition. A declaratory ruling is binding on the agency and the person requesting it unless it is altered or set aside by any court. An agency may not retroactively change a declaratory ruling, but nothing in this subsection prevents an agency from prospectively changing a declaratory ruling. A declaratory ruling is subject to judicial review in the same manner as an agency final decision or order in a contested case.

**History:** 1969, Act 306, Eff. July 1, 1970.

**Administrative rules:** R 32.11 et seq.; R 38.131 et seq.; R 299.5001 et seq.; R 323.1001 et seq.; R 324.1 et seq.; R 325.1211; R 325.10101 et seq.; R 338.81; R 340.1351 et seq.; R 400.1 et seq.; R 408.20001 et seq.; and R 436.1971 et seq. of the Michigan Administrative Code.

**Popular name:** Act 306

**Popular name:** APA

#### **24.264 Declaratory judgment as to validity or applicability of rule.**

Sec. 64. Unless an exclusive procedure or remedy is provided by a statute governing the agency, the validity or applicability of a rule, including the failure of an agency to accurately assess the impact of the rule on businesses, including small businesses, in its regulatory impact statement, may be determined in an action for declaratory judgment if the court finds that the rule or its threatened application interferes with or impairs, or imminently threatens to interfere with or impair, the legal rights or privileges of the plaintiff. The action shall be filed in the circuit court of the county where the plaintiff resides or has his or her principal place of business in this state or in the circuit court for Ingham county. The agency shall be made a party to the action. An action for declaratory judgment may not be commenced under this section unless the plaintiff has first requested the agency for a declaratory ruling and the agency has denied the request or failed to act upon it expeditiously. This section shall not be construed to prohibit the determination of the validity or applicability of the rule in any other action or proceeding in which its invalidity or inapplicability is asserted.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 2011, Act 243, Imd. Eff. Dec. 8, 2011.

**Popular name:** Act 306

**Popular name:** APA